

Exhibit M



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January 12, 2023

Via Email

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**RE: Response to Plaintiffs' Counsel's January 11, 2023 Email Regarding Outstanding
Discovery**

Dear Adam:

We seem to be going in circles. Our merits-based document productions, which will begin on a rolling basis tomorrow, are only due to begin on January 13th. As explained in detail in the letter I sent Wednesday night, Magistrate Judge Reid instructed that we are to commence rolling productions of documents on January 13th. We intend to comply with that order.

Defendants' Production

As also set forth in detail in my January 10, 2023 letter, Defendants' rolling merits-based productions—which will commence on January 13th—will include any communications with or concerning Voyager or concerning the October 27, 2021 Voyager Press Conference. As ordered by Magistrate Judge Reid, we will be prioritizing documents from Mr. Mackey and Mr. Tapply and will complete production of their documents by the end of January. ECF No. 77 ¶ 5.

I'm not sure what to make of the document you attached, "Sample Mark Cuban Targeting Miami for Crypto Products," but I don't feel that it is fruitful to rehash our personal jurisdiction argument over email. Nevertheless, I must note that your position on personal jurisdiction is utterly nonsensical. To the extent Mr. Cuban, based in Dallas, opened a Voyager account and had any activity in such account, that has zero connection to Florida. While Mr. Cuban's personal Voyager-related account records have no connection to the state of Florida, we will include records relating to such account in our rolling productions that will commence on January 13th.

Further, we urge you to go back and read the transcript of the October 27, 2021 Press Conference. *See* ECF No. 41-1. There was no "targeting" of Florida during the Press Conference, which is why you have not received documents showing any such targeting. These documents simply do not exist. As you known, neither Florida, Miami, nor any other Florida city are mentioned during the Press Conference. To the extent there is any discussion of any jurisdiction or area, Mr. Cuban mentions the need "to engage all of Dallas." ECF No. 41-1 at 4:24.



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Thank you for bringing our attention to *Balestra v. ABTCOIN LLC*. Did you even read the case? Had you done so, you would surely have seen that *Balestra* involves a fundamentally different set of factual circumstances. There, the two defendants were founders and officers of a company that engaged in an unregistered ICO. Those two defendants attended a press conference in the forum, boasted that they had already attracted excited investors in the forum, and touted their connection to forum as a selling point for the coin in question. Those facts are all absent here.

Separately, we feel it is necessary to correct your fabrications regarding our prior production of documents relevant to jurisdiction.

- Our January 3, 2023 production consisted of 524 documents, which, by any conceivable measure, makes your statement that we “only produced about 25 documents” an utter falsehood.
- Plaintiffs served their document requests to Mr. Cuban and the Mavericks on November 7, 2023, not in September as you inaccurately claim.
- Despite your statement that you “did not see a single text” in our production, our production included text messages. *See, e.g.*, MAVSCUBAN00001118; MAVSCUBAN00001121.
- Our production also included emails from Mark Cuban related to the BTC Miami conference you repeatedly reference, though that conference has absolutely nothing to do with Voyager or any of your claims. *See* MAVSCUBAN00000610.

Your demand that we immediately produce a privilege log is also misguided. We will comply with the local rules with respect to the timing of generation of a privilege log.

Third-Party Depositions and Depositions of Absent Class Members

Please keep us apprised on the status of all third-party depositions that you have noticed. By the close of business tomorrow, please finally advise us as to whether you properly served subpoenas for the depositions of Sullivan & Cromwell and Mr. Gronkowski, whether either party has responded or objected, and whether these depositions have been scheduled and in fact are proceeding. As to Mr. Ehrlich, in light of your recent communications with Mr. Ehrlich’s counsel to which we have been copied, we realize there is a distinct possibility that this non-party deposition may not proceed on January 25th, as proposed.

As the two additional “proposed plaintiffs” are at best absent class members at the present time, we do not believe a deposition is proper at this time. We reserve all rights in this regard.

Plaintiffs’ Production

We appreciate your commitment that you will be producing documents that show all of Plaintiffs’ deposits and withdrawals.

Your comment regarding our document requests concerning Plaintiffs’ other cryptocurrency is difficult to understand. As explained in the January 10, 2023 letter, Magistrate Judge Reid ordered that “Plaintiffs shall produce outstanding discovery requested in Defendants’ First Omnibus Request for Production.” ECF No. 77 ¶ 4. With respect to Defendants’ document requests related to any investment accounts with any brokerage firm, Magistrate Judge Reid simply held that Plaintiffs do not have to produce these documents “at this juncture,” and we reserve the right to compel these documents. Further, that does



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not eliminate your obligation to produce documents responsive to our other requests. Please make sure that Friday's production details Plaintiffs' other cryptocurrency investments, including the other cryptocurrency platforms they use (either via their computers or phones) and the wallet addresses of those other accounts.

Additionally, we request that Plaintiffs produce as part of tomorrow's production their state and federal income tax returns from the year 2020 forward. Any reported tax losses on Plaintiffs' cryptocurrency investments will have mitigated Plaintiffs' alleged losses and are thus relevant in defending against Plaintiffs' specious claims.

We look forward to receiving your productions "by the close of business January 13, 2023," as ordered by Magistrate Judge Reid (ECF No. 77 ¶ 4) and reserve all rights as to that production's sufficiency.

Regards,

s/ Sigmund S. Wissner-Gross

Sigmund S. Wissner-Gross

CC:
All Counsel